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Judgment of the Court of Justice in Case C-365/02

Ms Marie Lindfors

**A VEHICLE IMPORTED INTO FINLAND IN CONNECTION WITH A TRANSFER
OF RESIDENCE NEED NOT BE EXEMPTED FROM FINNISH CAR TAX**

*That tax cannot be regarded as a tax connected with importation, since its chargeable event is
the use of the vehicle in Finnish territory*

A Council directive of 1983¹ establishes an exemption from consumption taxes on personal property imported permanently from another Member State by private individuals. However, the directive does not apply to specific and/or periodical duties and taxes connected with the use of that property within the country, such as, for instance, motor vehicle registration fees and road taxes.

After residing in other Member States, Ms Lindfors moved permanently to Finland on 4 August 1999, and imported a private car into Finland which was her personal property and had been brought into use in the Netherlands after having been bought in Germany.

The Hangon tullikamari (Hanko Customs Board) assessed car tax (autovero) of 20 198 Finnish markka (about 3 400 euros).

As Ms Lindfors considered that autovero was a consumption tax the charging of which was prohibited under the 1983 directive, legal proceedings followed, in which the Korkein hallinto-oikeus (Supreme Administrative Court) as final court of appeal stayed the proceedings and referred to the Court of Justice the question whether Community law precludes the levying of tax on a vehicle imported from another Member State in connection with a transfer of residence.

¹ Council Directive 83/183/EEC of 28 March 1983 on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals (OJ 1983 L 105, p. 64).

The Court of Justice finds, first, that **autovero cannot be regarded as a tax connected with importation, since its chargeable event is the use of a vehicle in Finnish territory**, which is not necessarily connected with the act of importation. Since autovero is payable as a result of the use of a vehicle in Finland, it **constitutes a specific tax connected with the use of property within the country, which is outside the scope of the 1983 directive**.

The Court notes, next, that **the Treaty offers no guarantee to citizens of the Union that transferring their activities to a Member State other than that in which they previously resided will be neutral as regards taxation**. Such a transfer may thus be to the citizen's advantage or disadvantage in terms of indirect taxation. It follows that any disadvantage, by comparison with the situation in which the citizen carried on his activities before the transfer, is not contrary to the Treaty, **provided however that the legislation in question does not place that citizen at a disadvantage as compared with those who were already resident there**.

The Court thus concludes that **Community law does not preclude**, in the context of a transfer of residence of the owner of a vehicle from one Member State to another, **a tax such as autovero from being charged before the registration or bringing into use of the vehicle in the Member State to which residence is transferred**.

However, it will be for the national court to ascertain whether the application of national law is capable of **ensuring that the owner is not placed in a less favourable situation than that of citizens who have been permanently resident in the Member State** in question and, if necessary, whether such a difference in treatment is justified by objective considerations independent of the residence of the persons concerned and proportionate to the legitimate aim pursued by national law.

Unofficial document, for media use only, which does not bind the Court of Justice.

Available languages: Danish, English, Finnish, French, Greek, Portuguese.

*The full text of the judgment can be found on the internet
<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en>*

In principle it will be available from midday CET on the day of delivery.

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